

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

MAR 19 PM 3:36

U.S. DISTRICT COURT
N.D. OF ALABAMA

MILTON SMILEY,

Plaintiff,

v.

BILLY MITCHUM, Warden, et.al.,

Defendants.

CV 02-TMP-1435-NE

ENTERED

MAR 19 2003

MEMORANDUM OF OPINION

This is a civil action pursuant to 42 U.S.C. § 1983 filed by the plaintiff, Milton Smiley, alleging that his constitutional rights were violated while he was incarcerated at Limestone Correctional Facility in Capshaw, Alabama. In his *pro se* complaint, plaintiff names as defendants Prisoner Commissioner Mike Haley, Warden Billy Mitchum¹, Assistant Warden David Wise, Dr. Collette Simon, Nurse Marty Martin, NaphCare, Inc., Dr. George Lyrene, Dr. Jerry McClain², and Dr. F.M. Henderson. He contends that the defendants have denied him three (3) necessary operations for his serious health problems, due to the cost of said procedures. Plaintiff also contends that denying medical treatment to inmates on the basis of cost is a matter of policy. As compensation for the alleged constitutional violation, plaintiff seeks injunctive relief in the form of “the operations and therapy [needed] so I won’t be [paralyzed or] crippled.” (Document #1, at 3).

The Court has been informed by the Alabama Department of Corrections that plaintiff passed this life on February 12, 2003. Accordingly, this is action is due to be DISMISSED because the plaintiff’s request for injunctive relief are now MOOT.


¹ Correct spelling, ‘Mitchem.’

² Correct name ‘James McLane.’

34

An appropriate order will be entered.

DONE and ORDERED on this the 19th day of March, 2003.


ROBERT B. PROBST
SENIOR JUDGE